

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.**

Petition of Cablevision of New Jersey, LLC)	
For a Determination of Effective Competition in)	CSR-8881-E
)	PSID No.: 007311
Tenafly Borough, NJ)	
CUID (NJ0217))	MB Docket No.: 14-94
)	
)	

To: Chief, Media Bureau

**PETITION FOR LEAVE TO SUPPLEMENT THE
COMMENTS OF THE NEW JERSEY DIVISION OF RATE COUNSEL IN
OPPOSITION TO**

**CABLEVISION OF NEW JERSEY, LLC's PETITION FOR A DETERMINATION
OF EFFECTIVE COMPETITION IN THE SYSTEM-WIDE FRANCHISE AREA
OF THE BOROUGH OF TENAFLY, BERGEN COUNTY, NEW JERSEY**

I. INTRODUCTION AND SUMMARY

Pursuant to *C.F.R.* Sections 76.6(a)(6) and 76.7(d) of the Commission's rules,¹ the New Jersey Division of Rate Counsel ("Rate Counsel") hereby petitions for leave to supplements its August 7, 2014, ("Opposition Comments") in opposition to Cablevision of New Jersey, LLC's, ("Cablevision") petition for a determination of effective competition in the Bergen System-Wide Franchise Area which includes the Borough of Tenafly, Bergen County, New Jersey ("Petition").

¹/ 47 C.F.R. § 76.6(a)(6) and § 76.7(d).

Cablevision's Petition relies on the Local Exchange Carrier ("LEC") test as the exclusive basis for a grant of effective competition. In its Petition, Cablevision submits that the test is met due to the presence of Verizon New Jersey, Inc. ("Verizon"), a qualifying LEC offering comparable video programming services to subscribers via a video network that overlaps Cablevision's Bergen System-Wide Franchise Area, which includes Tenaflly Borough.² In support, Cablevision states that Verizon has conveyed certified build-out information to the local franchising authority ("BPU") indicating that it has at least a 60% built-out in the Bergen System-Wide Franchise Area, providing comparable video programming as Cablevision and therefore under the LEC Test and the *Cable Reform Order*, the area including the Borough of Tenaflly is subject to effective competition.³

II. CABLEVISION FAILS TO MEET THE LEC TEST AND STANDARDS UNDER 47 C.F.R. § 76.905 FOR IDENTIFICATION AS A CABLE SYSTEM SUBJECT TO EFFECTIVE COMPETITION

In its Opposition Comments, Rate Counsel provided the Bureau with a letter dated August 5, 2014, from the BPU provided pursuant to an OPRA request, confirming that a search of its records indicated the BPU did not have any document "confirming whether or not Verizon N.J. had notified the Board or Office of Cable Television (OCTV) that it had passed 60% of the homes in the Borough of Tenaflly, N.J." ... "Further, staff is not aware of any responsive documents that have been filed with the Board or OCTV by Verizon NJ in response to Rate Counsel's request."⁴

In addition, to further demonstrate that the Borough of Tenaflly is not subject to effective competition, Rate Counsel provided the Bureau with an Effective Competition

²/ Petition at pp. 1-2.

³/ Petition at pp. 1, 5 – 7 and at 14.

⁴/ Rate Counsel Exhibit A, attached to Rate Counsel comments dated August 7, 2014.

Tracking Report (“ECTR”) provided by the Satellite Broadcasting and Communications Association showing the DTH satellite penetration in Tenaflly Borough as zero.⁵

Herein, Rate Counsel reaffirms and incorporates by reference the arguments made by Rate Counsel in its Opposition Comments, and hereby supplements that filing to include a response provided to Rate Counsel by Verizon N.J. which confirms that Verizon N.J. is not currently offering its video programming services in the Borough of Tenaflly, a Borough within Cablevision’s Bergen System-Wide Franchise Area, for which Cablevision seeks a finding of effective competition.⁶ Thus, presently Cablevision is the sole and exclusive provider of video and cable programming in the Borough of Tenaflly.

Based on the latest information provided by Rate Counsel herein, it is clear that Cablevision fails to meet the LEC test under § 543(1)(1)(D). Therefore, the Bureau should deny Cablevision’s pending Petition for Determination of Effective Competition in the Borough of Tenaflly, part of Cablevision’s Bergen System-Wide Franchise Area.

Respectfully submitted,

STEFANIE A. BRAND, DIRECTOR
NEW JERSEY DIVISION OF RATE COUNSEL

By: /s/ Christopher J. White

Dated: August 15, 2014.
cc: Service List

Christopher J. White, Deputy Rate Counsel
On Behalf of Rate Counsel

⁵/ Rate Counsel Exhibit B, *id.*

⁶/ See attached hereto, Rate Counsel Exhibit D. Rate Counsel notes that Mr. Jeff J. Lahm, is a Regulatory Consultant currently employed at Verizon NJ Telecommunications, and handles matters concerning Verizon NJ’s FiOS deployment in the New York/New Jersey metropolitan area. See profile at: www.linkedin.com/pub/jeff-lahm/21/b07/476.

**Petition of Cablevision of New Jersey, LLC
For a Determination of Effective Competition in
Tenafly Borough, NJ (CUID (NJ0217)
CSR-8881-E, MB Docket No. 14-94**

RATE COUNSEL EXHIBIT D

Maria Novas-Ruiz

Subject: FW: Tenaflly NJ

-----Original Message-----

From: Lahm, Jeff [mailto:jeff.j.lahm@verizon.com]
Sent: Tuesday, August 12, 2014 11:40 AM
To: Maria Novas-Ruiz
Cc: Christopher White
Subject: RE: Tenaflly NJ

Hi Maria,

As previously indicated in my initial response,

"At the present time, Verizon does not offer FiOS TV in Tenaflly."

Jeff

-----Original Message-----

From: Maria Novas-Ruiz [mailto:mnovas-ruiz@rpa.state.nj.us]
Sent: Tuesday, August 12, 2014 11:43 AM
To: Lahm, Jeff
Cc: cwhite@rpa.state.nj.us
Subject: RE: Tenaflly NJ

Hi Jeff,

Chris, is out this week but he is monitoring his emails and has asked that I check with you on the percentage of FiOS-TV subscribers Verizon currently serves in Tenaflly, NJ. If you have a number available, or if in fact Verizon has yet to roll-out the product/services in any part of Tenaflly.

Thank you for your assistance.

Best Regards,
Maria

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-----Original Message-----

From: Lahm, Jeff [mailto:jeff.j.lahm@verizon.com]
Sent: Sunday, August 10, 2014 11:00 AM
To: Christopher White; Maria Novas-Ruiz; Christopher White
Cc: Madeam, Ava-Marie; Smith, William D
Subject: RE: Tenaflly NJ

Mr. White
Chris,

Confirmed. At the present time, Verizon does not offer FiOS TV in Tenaflly.

Jeff

-----Original Message-----

From: Christopher White [mailto:cwhite@rpa.state.nj.us]
Sent: Monday, August 04, 2014 8:27 AM
To: Lahm, Jeff; Maria Novas-Ruiz; cwhite@rpa.state.nj.us
Cc: Madeam, Ava-Marie; Smith, William D
Subject: Tenaflly NJ

Can you confirm that Verizon has not provided notice to OCTV that they pass 60% of the homes in this town.
Thanks.

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Certificate of Service

I, Gabrielle Pichler, hereby certify that on this 15 day of August 2014, a copy of Rate Counsel's Supplemental Comments in Opposition to Cablevisions Petition for Determination of Effective Competition was sent via US Mail, Hand Delivery, and/or Email, as noted, to the following individuals:

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